Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
In re: Delete, Delete, Delete	)	GN Docket No. 25-133
	)	
Achieving 100% Wireless Handset Model Hearing Aid Compatibility	)	WT Docket No. 23-388
	)	
Common Carrier Annual Employment Report	)	WC Docket No. 16-233
	)	
	)	
CTIA Petition for Rulemaking on the Commission's National Environmental Policy Act Rules	)	RM-12003

COMMENTS OF THE RURAL WIRELESS ASSOCIATION, INC.

The Rural Wireless Association, Inc. ("RWA")[1] submits these Comments in response to the Federal Communications Commission's ("Commission" or "FCC") Public Notice in the above-captioned proceeding.[2] RWA appreciates the opportunity to help identify FCC rules that should be eliminated to alleviate unnecessary burdens.

Eliminating or narrowing the rules and requirements set forth below would greatly facilitate growth and investment in modernizing wireless networks, developing infrastructure, and offering innovative capabilities in rural areas. Specifically, the FCC should: (1) eliminate the hearing aid compatibility ("HAC") certification and HAC reporting requirements; (2)

[1] RWA is a 501(c)(6) trade association dedicated to promoting wireless opportunities for small rural telecommunications and broadband companies who serve consumers who, reside, work, or travel in rural America. RWA's members are small businesses serving or seeking to serve secondary, tertiary, and rural markets. Each of RWA's voting member companies serves 350,000 or fewer subscribers with most serving under 10,000 subscribers.
[2] *See In re: Delete, Delete, Delete*, Public Notice, GN Docket No. 25-133 (rel. Mar. 12, 2025), https://docs.fcc.gov/public/attachments/DA-25-219A1.pdf.

eliminate the common carrier annual employment report; and (3) narrow its environmental and historic preservation rules.

The elimination and/or narrowing of these rules is consistent with the recent series of Executive Orders that President Trump adopted in which he called on administrative agencies to review their existing regulations to ensure consistency with the administration's policies.[3] Additionally, these proposals are in line with the FCC's duties under the Communications Act, which require the Commission to regularly review its rules to identify and eliminate rules that are unnecessary.[4] RWA strongly believes that eliminating the above-referenced rules will enable RWA members to better allocate their limited resources towards serving consumers who reside, work, or travel in rural America, instead of spending valuable time and money on completing unnecessary reports and complying with unnecessary obligations that no longer serve the public interest.

I. The FCC Should Eliminate the HAC Certification Requirement for Carriers and all Hearing Aid Compatibility Reporting Requirements.

RWA fully supports the required provision of communications services to those with hearing loss and appreciates the importance of the FCC's HAC rules. Under the Commission's rules, service providers, including the small rural carriers who make up RWA's membership, must file annual reports by January 31 of each year via FCC Form 855, certifying HAC related information including the website address of the page(s) containing the required information

[3] *See*, e.g., Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation, 24 Fed. Reg.9065 (Feb. 6, 2025); *see also* Executive Order 14219 of February 19, 2025, Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative, 36 Fed. Reg. 10583 (Feb. 25, 2025).

[4] *See, e.g.*, 47 U.S.C. § 161 (directing the Commission periodically to review rules applicable to telecommunications carriers to "determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service," in which case it "shall repeal or modify" the regulation).

regarding handset models and the percentage of handsets offered that are HAC.[5] Information about hardware compatibility, a feature that is solely reliant on the original equipment manufacturer's ("OEM") design and implementation for a specific device, should be maintained by the OEM rather than the carrier since it is the OEM that has the information. The administrative burden on small entities (who generally have limited resources and staff) in filing this annual certification far outweighs the benefit of providing consumers with publicly accessible information regarding HAC handsets. Though the Form 855 instructions provide an estimated response time of 0.5 hours to complete the form itself,[6] this is an inapt measure of the overall administrative burden of the current HAC compliance regime on small carriers. The steps required by a carrier to ensure that each mobile handset device in its inventory is sufficiently HAC-rated and properly listed in the carrier's own HAC website (along with other information regarding HAC standards), and therefore allow it to make the annual certification, are numerous and can entail many hours of dedicated administrative time. Though carriers are fully willing to accommodate the needs of customers with hearing loss, carriers should not be required to spend time duplicating efforts that are most appropriately expended by handset manufacturers and the FCC itself to ensure that adequate information on HAC handsets is publicly available. Moreover, the FCC even acknowledged in 2018 that there was "decreasing public reliance" on HAC reports since they were first required in 2003.[7]

As an alternative to the current HAC reporting requirements, the Commission could maintain a consolidated list of approved HAC devices to provide consumers with information

[5] 47 C.F.R. § 20.19(i)(1).
[6] *See* FCC Form 855: Hearing Aid Compatibility Certification, Instructions for Service Providers, OMB Control No. 3060-0999 (September 2024).
[7] *See Revisions to Reporting Requirements Governing Hearing Aid-Compatible Mobile Handsets*, Report and Order, WT Docket No. 17-288 (rel. Nov. 16, 2018), https://docs.fcc.gov/public/attachments/FCC-18-167A1.pdf.

about HAC handset models that serve their needs. Or, the Commission could require carriers to maintain simple HAC websites that are uniform, clear, and concise, and periodically review and audit such sites to ensure compliance.

Additionally, this past December, the FCC adopted a 100 percent HAC requirement that applies to *all* future wireless handset models offered for sale or use in the U.S.[8] Handset manufacturers will be required to transition within a 24-month period and non-nationwide service providers to transition over a 42-month period ending June 13, 2028, after which, *all* handset models will be required to be HAC.[9] As such, there appears to be little need to continue to require carriers to submit HAC certifications, which are mainly focused on collecting information regarding carriers' percentage of wireless handsets that are HAC. In the six and one-half years since the FCC streamlined the HAC reporting requirements, the Commission has never initiated an enforcement action based on these reports so there is little need for these reports to ensure compliance.

II. The FCC Should Eliminate the Common Carrier Annual Employment Report.

Pursuant to section 1.815 of the FCC's rules, each common carrier licensee or permittee with 16 or more full time employees must file FCC Form 395, an annual employment report.[10] In the report, licensees or permittees must provide the number of full-time and part-time employees they have and provide data on employee gender and race and ethnicity.[11] Licensees and permittees must also advise the Commission of any complaints regarding violations of the

[8] *See* 47 C.F.R. § 20.19(c).
[9] *Id.* As of 2023, more than 90 percent of wireless handsets are hearing aid compatible. "Brief Explainer: Hearing Aid Compatibility (HAC)," Access Wireless, CTIA Initiative, https://www.accesswireless.org/hac.
[10] 47 C.F.R. § 1.815.
[11] *Id.*; *FCC Form 395*, Federal Communications Commission (2021), https://transition.fcc.gov/Forms/Form395/395.pdf.

equal employees provisions of Federal, state, territorial, or local statutes that have been filed against this company before a person or entity having competent jurisdiction in such matters during the calendar year covered by the report.[12]

The FCC should eliminate this reporting requirement in light of recent changes and announcements from the Trump administration and FCC Chairman Brendan Carr. Specifically, on January 21, Chairman Carr announced the end of the FCC's promotion of diversity, equity, and inclusion ("DEI") following an Executive Order from President Trump regarding the same.[13] Chairman Carr stated that the Commission would take further actions to ensure that the FCC's promotion of DEI ends, that "promoting invidious forms of discrimination" runs contrary to the Communications Act, and that such initiatives represent a wasteful expenditure of taxpayer resources.[14] Given the new administration's posture towards this issue and the amount of resources and time it takes small rural carriers to file these reports, the Commission should eliminate the common carrier annual employment reports due to changes in the broader regulatory context.

III. The FCC Should Narrow its Environmental and Historic Preservation Rules

The FCC's rules provide that for certain types of facilities that may significantly impact the environment, applicants, in certain situations, must prepare environmental assessments, triggering further Commission environmental processing. The FCC must review all major federal actions under the National Environmental Policy Act (NEPA) and all federal undertakings under the National Historic Preservation Act (NHPA).[15] To meet this requirement,

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[12] *Id.*

[13] *See* Brendan Carr, Chairman Carr Ends FCC's Promotion of DEI (Jan. 21, 2025), https://docs.fcc.gov/public/attachments/DOC-409054A1.pdf.

[14] *Id.*

[15] 47 C.F.R. §§ 1.1301-1320; *see also* Fiscal Responsibility Act of 2023, Pub. L. No. 118-5, § 321, 137 Stat. 10, 38-46 (codified at 42 U.S.C. §§ 4321-47). Courts and the FCC have long treated the terms major federal action and undertaking as largely equivalent or coextensive. *See Karst Envtl. Educ. & Prot., Inc. v. EPA*, 475 F.3d 1291, 1295-

the FCC requires applicants to determine whether an action may significantly impact the environment which requires an applicant to conduct a NEPA review, which includes a NHPA review.[16] Under the FCC's NEPA rules, applicants must determine whether a proposed facility falls within a sensitive area such as one that: (1) is located in an officially designated wilderness area; (2) is located in an officially designated wildlife preserve; (3) may affect listed threatened or endangered species or designated critical habitats; (4) may affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places; (5) may affect Indian religious sites; (6) is located in floodplains, if the facilities will not be placed at least one foot above the base flood elevation of the floodplain; or (7) will involve significant change in surface features.[17] If such action falls in a category listed above, then an environmental assessment is required, which furthers delays FCC action and deployment of critical wireless facilities.

First, the Commission should review and narrow the types of actions it considers "major federal actions" or "undertakings". As CTIA has recently asserted, the FCC should *not* consider geographic area license wireless facility deployments that do not require an antenna structure registration ("ASR") as a major federal action under NEPA. As CTIA explained, in the absence

96 (D.C. Cir. 2007) ("*Karst*"); *Sac and Fox Nation of Mo. v. Norton*, 240 F.3d 1250, 1263 (10th Cir. 2001) ("*Sac and Fox Nation*"); *Sugarloaf Citizens Ass'n v. FERC*, 959 F.2d 508, 515 (4th Cir. 1992) ("*Sugarloaf*"); *Ringsred v. City of Duluth*, 828 F.2d 1305, 1309 (8th Cir. 1987); *NHPA/NEPA Order*, 33 FCC Rcd at 3114 ¶ 37; *Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, Report and Order, 29 FCC Rcd 12865, 12886 ¶ 43 ("*2014 Order*").

[16] Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process, Report and Order, 20 FCC Rcd 1073, 1084 ¶ 27 (2004).

[17] 47 C.F.R. § 1.1307(a).

of a construction permit or a site-by-site license, the FCC's retention of authority to require review exceeds its statutory authority.[18]

In addition, the Commission should exempt all small wireless facilities from NEPA and the NHPA. In 2018 to cut costs of deployment related to historic preservation and environmental review, the FCC amended Rule Section 1.1312 to exclude from review under the NHPA and NEPA, the deployment of small wireless facilities by non-Federal entities on non-Tribal land. The FCC clarified that such facilities do not constitute federal "undertakings" or "major federal actions". Thus, the FCC made a public interest finding that Section 1.1312 of its rules which requires facilities for which no preconstruction authorization is required, to consider whether such facilities will significantly affect the environment, did not apply to the deployment of certain small wireless facilities, and therefore those deployments are neither major federal actions nor undertakings. Subsequently, the D.C. Circuit vacated this public interest finding but never reached the question of whether the determination that the construction of such facilities (small wireless facilities) was not a major federal action or undertaking was lawful. *United Keetoowah Band of Cherokee Indians in Okla. v. FCC*, 933 F.3d 728, 740-45 (D.C. Cir. 2019). As the FCC previously found, given the size of small wireless deployments, they have minimal impact on the environment and the FCC should exempt such facilities from NEPA. NEPA reviews require significant time and money and substantially slow infrastructure deployment.[19] In many situations, these costs and delays substantially outweigh the benefits of such reviews especially when a proposed facility has minimal environmental or historical impact. For

[18] *See CTIA Petition for Rulemaking on the Commission's National Environmental Policy Act Rules*, RM 12-003, CTIA – The Wireless Association's Petition for Rulemaking, RM Docket No. 12003 (filed Mar. 27, 2025).
[19] *Id.* (stating that NEPA permitting and mitigation for a single proposed deployment in one southern state cost $37,200 and that where environmental assessments are required to be prepared, reports cost upwards of $60,0000 per deployment).

example, for each wireless deployment, even in areas where there is already construction for other reasons, such as a new stadium or wind farm, the applicant must still conduct a NEPA and NHPA review for a wireless deployment. For a NHPA review, applicants must engage a Secretary of Interior qualified consultant at great cost to prepare FCC Form 620. As part of that review, required consultation with Indian Tribes can further slow the process, including in areas the Tribe has not been located in for decades. Tribal governments can request further reviews merely by indicating a cultural resource may exist without specifying what that resource is. Moreover, many Tribes request payment to monitor construction or to conduct their own archaeological survey even though an applicant may have already engaged a consultant to do so. Such action slows the entire process down and often results in large unnecessary payments to Tribes. Accordingly, the Commission should make clear that Tribes cannot request payment for monitoring construction or for cultural resource reviews where they do not specify the cultural resource they seek to protect.

IV. Conclusion

RWA appreciates the opportunity to participate in this proceeding to identify FCC rules that should be eliminated to alleviate unnecessary burdens on RWA's members. RWA firmly believes that eliminating or narrowing the requirements above would greatly facilitate growth and investment in modernizing wireless networks and help RWA's members better serve rural America.

Respectfully submitted,

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